

HOUSE BILL 1027

C3
HB 1280/09 – HGO

0lr2483

By: **Delegate Mizeur**

Introduced and read first time: February 15, 2010

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Gender Equity Health Coverage Act**

3 FOR the purpose of prohibiting insurers, nonprofit health service plans, and health
4 maintenance organizations, with respect to health insurance offered to
5 individuals, from making or allowing a differential in ratings, premium
6 payments, or dividends for a reason based on the sex of an applicant or
7 policyholder; providing certain exceptions to provisions of law allowing the
8 consideration by insurers of actuarial justification with respect to sex under
9 certain circumstances; prohibiting insurers, nonprofit health service plans, and
10 health maintenance organizations from considering sex in underwriting a
11 particular risk or class of risks with respect to health insurance offered to
12 individuals; requiring the Maryland Insurance Commissioner to review certain
13 rating practices and underwriting standards to ensure certain compliance;
14 authorizing the Commissioner to adopt regulations to carry out certain
15 provisions of this Act; providing for the construction of certain provisions of this
16 Act; providing for the application of this Act; and generally relating to
17 discrimination in ratings and underwriting standards for health insurance.

18 BY adding to

19 Article – Health – General
20 Section 19–706(ccc)
21 Annotated Code of Maryland
22 (2009 Replacement Volume)

23 BY repealing and reenacting, without amendments,

24 Article – Insurance
25 Section 27–208(b)(1) and 27–501(a) and (b)(1)
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2009 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
 2 Section 27–208(b)(2) and 27–501(b)(2)
 3 Annotated Code of Maryland
 4 (2006 Replacement Volume and 2009 Supplement)

5 BY adding to
 6 Article – Insurance
 7 Section 27–501(h–1)
 8 Annotated Code of Maryland
 9 (2006 Replacement Volume and 2009 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Health – General**

13 19–706.

14 **(CCCC) THE PROVISIONS OF §§ 27–208(B)(2) AND 27–501(H–1) OF**
 15 **THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

16 **Article – Insurance**

17 27–208.

18 (b) (1) A person may not make or allow unfair discrimination between
 19 individuals of the same class and of essentially the same hazard:

20 (i) in the amount of premium, policy fees, or rates charged for a
 21 policy or contract of health insurance;

22 (ii) in the benefits payable under a policy or contract of health
 23 insurance;

24 (iii) in any of the terms or conditions of a policy or contract of
 25 health insurance; or

26 (iv) in any other manner.

27 (2) **(I) [Notwithstanding] EXCEPT AS PROVIDED IN**
 28 **SUBPARAGRAPH (II) OF THIS PARAGRAPH AND NOTWITHSTANDING** any other
 29 provision of this section, an insurer may not make or allow a differential in ratings,
 30 premium payments, or dividends for a reason based on the sex of an applicant or
 31 policyholder unless there is actuarial justification for the differential.

32 **(II) WITH RESPECT TO HEALTH INSURANCE OFFERED TO**
 33 **INDIVIDUALS IN THE STATE, AN INSURER, NONPROFIT HEALTH SERVICE PLAN,**

1 OR HEALTH MAINTENANCE ORGANIZATION MAY NOT MAKE OR ALLOW A
2 DIFFERENTIAL IN RATINGS, PREMIUM PAYMENTS, OR DIVIDENDS FOR A REASON
3 BASED ON THE SEX OF AN APPLICANT OR POLICYHOLDER.

4 (III) THE COMMISSIONER SHALL REVIEW THE RATINGS
5 PRACTICES OF EACH INSURER, NONPROFIT HEALTH SERVICE PLAN, AND
6 HEALTH MAINTENANCE ORGANIZATION OFFERING HEALTH INSURANCE TO
7 INDIVIDUALS IN THE STATE TO ENSURE COMPLIANCE WITH SUBPARAGRAPH (II)
8 OF THIS PARAGRAPH.

9 27-501.

10 (a) (1) An insurer or insurance producer may not cancel or refuse to
11 underwrite or renew a particular insurance risk or class of risk for a reason based
12 wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder
13 or for any arbitrary, capricious, or unfairly discriminatory reason.

14 (2) Except as provided in this section, an insurer or insurance
15 producer may not cancel or refuse to underwrite or renew a particular insurance risk
16 or class of risk except by the application of standards that are reasonably related to
17 the insurer's economic and business purposes.

18 (b) (1) An insurer may not require special conditions, facts, or situations
19 as a condition to its acceptance or renewal of a particular insurance risk or class of
20 risks in an arbitrary, capricious, unfair, or discriminatory manner based wholly or
21 partly on race, creed, color, sex, religion, national origin, place of residency, blindness,
22 or other physical handicap or disability.

23 (2) [Actuarial] EXCEPT AS PROVIDED IN SUBSECTION (H-1) OF
24 THIS SECTION, ACTUARIAL justification may be considered with respect to sex.

25 (H-1) (1) WITH RESPECT TO HEALTH INSURANCE OFFERED TO
26 INDIVIDUALS IN THE STATE, AN INSURER, NONPROFIT HEALTH SERVICE PLAN,
27 OR HEALTH MAINTENANCE ORGANIZATION MAY NOT CONSIDER SEX IN
28 UNDERWRITING A PARTICULAR INSURANCE RISK OR CLASS OF RISKS AND MAY
29 NOT MAKE OR ALLOW A DIFFERENTIAL IN RATINGS, PREMIUM PAYMENTS, OR
30 DIVIDENDS FOR A REASON BASED ON THE SEX OF AN APPLICANT OR
31 POLICYHOLDER.

32 (2) THE COMMISSIONER SHALL REVIEW THE UNDERWRITING
33 STANDARDS OF EACH INSURER, NONPROFIT HEALTH SERVICE PLAN, AND
34 HEALTH MAINTENANCE ORGANIZATION OFFERING COMPREHENSIVE HEALTH
35 INSURANCE TO INDIVIDUALS IN THE STATE TO ENSURE COMPLIANCE WITH
36 PARAGRAPH (1) OF THIS SUBSECTION.

1 **(3) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY**
2 **OUT THIS SUBSECTION.**

3 **(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT AN**
4 **INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE**
5 **ORGANIZATION FROM IMPOSING ANY LIMITATIONS ON PREEXISTING**
6 **CONDITIONS, INCLUDING PREEXISTING CONDITIONS THAT ARE GENDER**
7 **SPECIFIC, OTHERWISE ALLOWED BY LAW.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
9 policies, contracts, and health benefit plans offered to individuals that are issued,
10 delivered, or renewed in the State on or after October 1, 2010.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2010.